STATE OF NEW YORK

3297

2023-2024 Regular Sessions

IN SENATE

January 30, 2023

Introduced by Sens. HOYLMAN-SIGAL, MYRIE, SALAZAR -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

AN ACT to amend the education law, in relation to authorizing pharmacists to dispense HIV pre-exposure and post-exposure prophylaxis

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 7-a of section 6527 of the education law, as added by chapter 502 of the laws of 2016, is amended to read as follows:

7-a. A licensed physician may prescribe and order a patient specific order or non-patient specific order to a licensed pharmacist, pursuant to regulations promulgated by the commissioner in consultation with the commissioner of health, and consistent with the public health law, for dispensing up to a seven day starter pack of HIV post-exposure prophylaxis for the purpose of preventing human immunodeficiency virus infection following a potential human immunodeficiency virus exposure**. A licensed physician may also prescribe and order a patient specific or non-patient specific order to a licensed pharmacist, pursuant to regulations promulgated by the commissioner in consultation with the commissioner of health, and consistent with the public health law and section sixty-eight hundred one of this title, for HIV pre-exposure prophylaxis, provided, however, that the regulations promulgated pursuant to this subdivision shall require that the HIV pre-exposure prophylaxis authorized to be dispensed by a licensed pharmacist shall provide for at least a thirty-day, but no more than a sixty-day, supply of such prophylaxis**.

§ 2. Subdivision 8 of section 6909 of the education law, as added by chapter 502 of the laws of 2016, is amended to read as follows:

[~~8.~~] **11.** A certified nurse practitioner may prescribe and order a patient specific order or non-patient specific order to a licensed pharmacist, pursuant to regulations promulgated by the commissioner in consultation with the commissioner of health, and consistent with the

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD01383-02-3

public health law, for dispensing up to a seven day starter pack of HIV post-exposure prophylaxis for the purpose of preventing human immunodeficiency virus infection following a potential human immunodeficiency virus exposure. A certified nurse practitioner may also prescribe and order a patient specific or non-patient specific order to a licensed pharmacist, pursuant to regulations promulgated by the commissioner in consultation with the commissioner of health, and consistent with the public health law and section sixty-eight hundred one of this title, for HIV pre-exposure prophylaxis, provided, however, that the regulations promulgated pursuant to this subdivision shall require that the HIV pre-exposure prophylaxis authorized to be dispensed by a licensed pharmacist shall provide for at least a thirty-day, but no more than a sixty-day, supply of such prophylaxis.

§ 3. Subdivision 5 of section 6801 of the education law, as added by chapter 502 of the laws of 2016, is amended and a new subdivision 9 is added to read as follows:

5. A licensed pharmacist may execute a non-patient specific order, for dispensing up to a seven day starter pack of HIV post-exposure prophylaxis medications for the purpose of preventing human immunodeficiency virus infection, by a physician licensed in this state or nurse practitioner certified in this state, pursuant to rules and regulations promulgated by the commissioner in consultation with the commissioner of health following a potential human immunodeficiency virus exposure. The pharmacist shall also inform the patient of the availability of pre-exposure prophylaxis for persons who are at substantial risk of acquiring HIV.

9. A licensed pharmacist may execute a non-patient specific order, for dispensing HIV pre-exposure prophylaxis, pursuant to rules and regulations promulgated by the commissioner in consultation with the commissioner of health provided, however, that the rules and regulations promulgated pursuant to this subdivision shall require that the HIV pre-exposure prophylaxis authorized to be dispensed by a licensed pharmacist shall provide for at least a thirty-day, but no more than a sixty-day, supply of such prophylaxis. And provided, further, that the following conditions shall be met before a pharmacist may dispense pre-exposure prophylaxis:

(a) The pharmacist has completed a training program created by the department of health on the use of pre-exposure prophylaxis. The training program shall educate pharmacists about the requirements of this subdivision, the risks and side effects of the medication, patient insurance and cost burdens, and any other information such department deems necessary or important;

(b) The patient is HIV negative, as documented by a negative HIV test result obtained within the previous seven days from an HIV antigen/antibody test or antibody-only test or from a rapid, point-of-care fingerstick blood test approved by the federal food and drug administration. If the patient does not provide evidence of a negative HIV test in accordance with this paragraph, the pharmacist may recommend an HIV test. If the patient tests positive for HIV infection, the pharmacist shall direct the patient to a licensed physician and provide the patient with a list of health care service providers and clinics within the county where the pharmacist is located or adjacent counties;

(c) The patient does not report any signs or symptoms of acute HIV infection on a self-reported checklist of acute HIV infection signs and symptoms;

(d) The patient does not report taking any contraindicated medications;

(e) The pharmacist does not furnish more than a sixty-day supply of pre-exposure prophylaxis to a single patient more than once every two years, unless directed otherwise by a prescriber.

(f) The pharmacist provides written information, published by the department of health, to the patient on the ongoing use of pre-exposure prophylaxis, which may include education about side effects, safety during pregnancy and breastfeeding, adherence to recommended dosing, and the importance of timely testing and treatment, as applicable, for HIV, renal function, hepatitis B, hepatitis C, sexually transmitted diseases, and pregnancy for individuals of child-bearing capacity. The pharmacist shall notify the patient that the patient must be seen by a licensed physician to receive subsequent prescriptions for pre-exposure prophylaxis; and

(g) The pharmacist provides information, with the patient's consent, to the patient or, when the patient lacks capacity to consent, a person authorized to consent to health care for such individual, on the importance of having a health care provider, developed by the commissioner of health, and if the patient does not have a health care provider the pharmacist shall provide the patient a list of licensed physicians, clinics, or other health care service providers within the county where the pharmacist is located or adjacent counties.

§ 4. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such date.